

20 April 2022

Steven Ensslen
The Secretary
New Zealand Council for Civil Liberties
PO Box 217
Carterton 5743

By email only to: fyi-request-18943-28edd038@requests.fyi.org.nz

Tēnā koe New Zealand Council for Civil Liberties

Official Information Act Request (Our Ref: OIA/0182OIA/0181)

- 1 I refer to your request under the Official Information Act 1982 (**OIA**) dated 21 March 2022.
- 2 You have requested from my Office (**OPC**):
 - a all analysis that OPC performed on the Data and Statistics Bill (**Bill**) and any unpublished drafts of the Bill;
 - b correspondence (whether by email or other means) with Statistics New Zealand (**Stats NZ**) and any other agency, on the Bill;
 - c minutes, and any handwritten notes produced by OPC or me, of any meetings with Stats NZ concerning either the Bill, and the policy development work that led to the Bill;
 - d analysis of whether Stats NZ should have produced a Privacy Impact Assessment (**PIA**) on the Bill or the policy proposals;
 - e correspondence (whether by email or other means) with Stats NZ about their decision not to produce a PIA of the Bill;
 - f all analysis and/or consideration of whether OPC would make a written submission to the Select Committee on the Bill;
 - g any drafts of a Select Committee submission which may have been started; and
 - h minutes, or any handwritten notes of the meeting at which decided not to submit on the Bill (and, if the decision was taken by an individual rather than at a meeting, then that person's record of the decision).
- 3 I have considered your request and have reviewed OPC's records relating to the development of the Data and Statistics Bill. Since your request, OPC has now made a

submission on the Bill to the Governance and Administration Committee, as we advised you on 6 April 2022.

- 4 Having consulted Stats NZ, I have decided to grant your request in relation to the correspondence between OPC and Stats NZ about the development of the Bill, and internal emails within OPC relating to OPC's review and consideration of the policy development papers and the Bill.
- 5 My decision to release this information under the OIA involves the exercise of my discretion under section 206(2) of the Privacy Act that permits me to disclose such matters as I consider ought to be disclosed for the purposes of giving effect to the Privacy Act. As there has been public discussion about the development of the Bill, whether the privacy protections in the Bill are adequate and OPC's role in assessing the privacy implications of the Bill, I am of the opinion that this information should be disclosed to provide assurance that OPC has examined the proposed legislation and the potential privacy implications and to confirm OPC's input into the development of the Bill.
- 6 However, the decision to release that information in response to your request does not include draft legislation or Cabinet papers provided to OPC in confidence. That material is covered by the obligation of secrecy under section 206(1) of the Privacy Act and is therefore refused under section 18(c)(i) of the OIA, as making this information available would be contrary to this provision in the Privacy Act. Cabinet papers relating to the development of the Bill are available from [Stats NZ](#).
- 7 I also note that some of the information you have requested does not exist. For example, OPC does not hold minutes of meetings with Stats NZ as feedback was provided by email rather than in person. OPC also does not hold information specifically about whether a PIA should have been undertaken, and OPC did not recommend a PIA for this Bill. Rather, OPC's analysis and submission focused on particular aspects of the Bill and the adequacy of the privacy safeguards. I further note that your request for reasons about my decision whether to submit on the Bill is covered by my submission to the Select Committee.

Next steps

- 8 I will provide to you the information that I describe in this letter above next week following the Easter/ANZAC holiday period.
- 9 I trust that this response assists with meeting your request for information about OPC's review of the Bill. However, should you be dissatisfied with my decision, you have the right to complain to the Ombudsman.

Nāku iti noa, nā



Liz MacPherson

Deputy Privacy Commissioner and Acting Privacy Commissioner